



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 4

ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

Date: August 14, 2009

Dr. Gregory J. Thorpe, Ph.D.  
Manager, Project Development and Environmental  
Analysis Branch  
North Carolina Department of Transportation  
1548 Mail Service Center  
Raleigh, North Carolina 27699-1501

SUBJECT: Federal Final Environmental Impact Statement for the NC 119 Relocation,  
I-85/I-40 to South of SR 1918, Mebane, Alamance County, North  
Carolina; TIP Project No.: U-3109; FHW-E40818-NC; CEQ No.:  
20090240

Dear Dr. Thorpe:

The U.S. Environmental Protection Agency Region 4 (EPA) has reviewed the subject document and is commenting in accordance with Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA). The North Carolina Department of Transportation (NCDOT) and the Federal Highway Administration (FHWA) are proposing to construct an approximate 5.6-mile, multi-lane, median-divided facility from I-85/I-40 south of SR 1918 (Mrs. White Street) in Mebane, Alamance County.

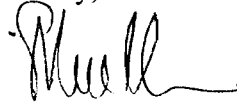
EPA's comment letter of December 3, 2007, on the Draft Environmental Impact Statement (DEIS) is included in Appendix I to the FEIS. The proposed project has also been in the NEPA/Section 404 Merger 01 process. EPA concurred with other Merger team agencies on the selection of the Least Environmentally Damaging Practicable Alternative (LEDPA) on June 19, 2008. Alternative 9 was selected as the 'Preferred Alternative' and LEDPA. EPA is not listed as one of the Merger team agencies concurring on the LEDPA (Page S-6 of the FEIS).

EPA has attached detailed technical review comments on the FEIS (See Attachment A). EPA continues to have environmental concerns regarding avoidance and minimization measures to jurisdictional wetlands and streams, impacted noise receptors and water supply watershed critical areas.

EPA staff, including Mr. Christopher Militscher and Ms. Kathy Matthews of EPAs' Wetlands Section will continue to work with you and FHWA and other agencies on the continued environmental coordination and Merger 01 process activities for this

project. EPA also requests a copy of the Record of Decision (ROD) when it becomes available. Please feel free to contact Mr. Militscher of my staff at (919) 856-4206 or Ms. Matthews at (919) 541-3062 should you have specific questions concerning EPA's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Mueller", with a long horizontal flourish extending to the right.

Heinz J. Mueller, Chief  
NEPA Program Office

Cc: J. Sullivan, FHWA  
K. Jolly, USACE  
B. Wrenn, NCDENR-DWQ

Attachment A  
FEIS Detailed Review Comments  
NC 119 Relocation  
Mebane, Alamance County  
U-3109

Overall Project Impacts

Table S.2 of the FEIS includes the summary of environmental impacts for the Preferred Alternative (i.e., DSA 9) as well as the other two detailed study alternatives (i.e., DSA 8 and 10). DSA 9 includes 46 residential relocations, 5 business relocations, 1 church relocation, 14 noise receptors impacts (3 receptors with substantial noise level increases), 1 historic site with an 'Adverse Effect', 1 impacted Section 4(f) resource, 3,178 linear feet of stream impacts, 0.25 acres of wetland impacts, 0.7 miles of new roadway located in a designated critical water supply watershed, 1.7 miles of new roadway in a protected area water supply watershed, 65.1 acres of impact to terrestrial forests, 2 hazardous material sites impacted, and 153.5 acres of prime and unique farmlands impacted.

Stream and Wetland Impacts

DSA 9 has the least impacts to jurisdictional streams and wetlands. However, EPA has environmental concerns regarding commitments to further avoid and minimize these impacts as well as compensatory mitigation. EPA anticipates that some of the issues concerning avoidance and minimization can be further addressed through the Merger 01 process at Concurrence Point 4A. EPA notes in the FEIS that NCDOT began evaluating the project corridor for suitable on-site mitigation location in August of 2008. These preliminary investigations should also be addressed and further evaluated at the Concurrence Point 4A meeting and also coordinated with Ms. Kathy Matthews of EPA's Wetlands Section.

Environmental Justice

EPA notes that the West End Revitalization Association (WERA) filed a complaint with the U.S. Department of Justice in 1999 under Title VI of the 1964 Civil Rights Act and Executive Order 12898 on Environmental Justice claiming that the City of Mebane, area transportation groups and NCDOT had discriminated against the West End Community with respect to the NC 119 Relocation Project and other issues. In addition, EPA also received and responded to environmental justice (EJ) complaints from WERA. Through our competitive grants process, EPA provided West End with several grants including an EJ Collaborative Problem-Solving Cooperative Agreement grant to help address some of the environmental concerns they were facing in their community. The EJ grant provided funds to install water and sewer services in 40 homes in the West End.

Following the concerns that were raised by the West End Community and others during the public involvement process, EPA notes the outreach efforts that were made to improve the public involvement process with respect to integrating potential EJ communities into the decision-making process. NCDOT held several public meetings and citizen workshops. They prepared a Community Impact Assessment and held a series of one-on-one meetings with citizens. NCDOT also conducted a community facilitation program designed to increase citizen involvement and to identify project-related issues. In addition, a NC 119 Relocation Steering Committee was also formed with a diverse group of citizens to help improve the information exchange between the communities and NCDOT representatives, distribute project related information (via newsletters or websites), etc. EPA recommends that NCDOT continue to work with the communities to ensure that they are informed of project-related changes and major project milestones.

The FEIS discusses potential impacts to communities and businesses within the project area. Table 4.2 provides an estimate of the relocations by each study alternative. The Preferred Alternative (“LEDPA”) will result in approximately 46 residential, 5 business and 1 church relocation. Each of the proposed build alternatives have similar relocations impacts and the level of project impacts has not changed from the DEIS to FEIS. However, EPA recognizes the early planning efforts to eliminate some preliminary alternatives that had significantly higher impacts to minority and low-income populations.

There are six (6) neighborhoods or areas (Fieldstone, West End, Downtown Mebane, Woodlawn, Mills Creek and White Level) within the immediate project vicinity. The FEIS describes the type and number of residential relocations that are proposed in each of these areas. For examples, the FEIS indicates that 16 residential displacements are required south of Fieldstone community or Fieldstone apartments, 4 residential displacements are projected within the West End Community, no relocations are project in Downtown Mebane, 10 residential displacements are proposed within the Woodlawn community, no relocations would be experienced by the Mills Creek neighborhood, and 6 displacements are proposed in the White level community.

The FEIS describes the demographic characteristics of each of these communities (Page 4-15 and 4-16) and provides demographic information relative to the State of North Carolina, Alamance County and the project study area. In EPA’s December 3, 2007, DEIS comment letter, we requested that the summary table be revised to include the anticipated number of low-income and minority displacements compared to the total number of relocations. This information was not included in the EJ section of the document. We note that Table S.2, the Summary of Environmental Impacts includes residential relocations for the West End Community (4), White Level Community (6) and Woodlawn Community (10). The table does not include the relocations for the Fieldstone community or Fieldstone apartments.

Other impacts including visual, noise, community cohesion, critical water supply and potential cumulative effects from other proposed transportation improvement projects within the vicinity are discussed in various levels of detail. In addition, the FEIS

also includes discussions that compare project-related impacts between EJ and non-EJ populations. Overall, EPA believes that good efforts were made to disclose project-related impacts in the FEIS and to improve the public involvement process to help address potential EJ concerns. Every effort also should be made during final design to further minimize residential relocations and visual and noise impacts to the extent practical. Any project-related commitments in this regard should be incorporated into the ROD.

#### Noise Receptor Impacts

EPA notes the comments on Noise Abatement and Mitigation Measures in Section 4.2.2.4 of the FEIS. EPA believes that NCDOT and FHWA have not provided a reasonable justification for not fully considering 'other mitigation measures considered', including the use of vegetative barriers and earthen berms. NCDOT and FHWA are making the continued argument that the purchase of the additional right-of-way is necessary to make vegetative barriers 'effective' to achieve the 5-dBA reductions in predicted noise levels increases. EPA concurs with NCDOT and FHWA that these measures are not nearly as effective as providing noise walls. However, any potential traffic noise reduction (as little as 1 dBA) near residential communities utilizing vegetative screening and earthen berms is beneficial and should be considered as a form of environmental stewardship.

EPA is very interested in discussing this matter in greater detail at the Merger 01 CP 4A, Avoidance and Minimization meeting. Efforts to 'adjust' the horizontal and vertical alignments within the project corridor to minimize impacts should also consider any potential noise reductions for impacted receptors.

#### Prime and Important Farmlands

EPA notes the comments on Pages S-22, 3-32 and 3-33, and 4-46 and 4-47 of the FEIS concerning prime and important farmlands. EPA notes that the farmlands indicated as being 'prime and unique' farmland did not score above 160 points on the Form AD-106 by NRCS. NCDOT should verify the criteria for prime and unique farmland at Title 7 Part 658. Section 4.2.5.2 of the FEIS addresses local farmland policies and that Alamance County has a Voluntary Preservation Farmland Program. The FEIS does not provide an analysis concerning the 153.5 acres of impacts to agricultural lands from Alternative 9 and that may be part of a Voluntary Agricultural District (VAD). Farmland impacts to VADs should be avoided and/or minimized to the extent practicable (G.S. 106-735; The Agricultural Development and Farmland Preservation Enabling Act). The FEIS also states that Alamance County has 240,623 'farmable' acres of which 179,301 acres are active farmland. The presence of 'prime farmland soils' in an area does not necessarily translate into 'farmable acres' or active farmlands. The figures presented in the FEIS do not appear to be accurate according to the Alamance County Farmland Protection Plan that in 2002 lists Alamance County with 97,793 acres of active farmland with 831 active farms. The FEIS does not identify how many active farms Alternative 9

will impact. The Alamance County Farmland Protection Plan is also not cited in the list of local plans and regulations in Section 4.4.5 of the FEIS.

#### Critical Water Supplies

Alternative 9 will increase impervious surfaces by approximately 5.1 acres within the water supply watershed critical area of the Graham-Mebane Reservoir. NCDOT has not proposed any alternative minimization strategies such as pervious concrete or porous pavement, concrete/asphalt within the water supply watershed critical area to help offset (i.e., Mitigate) for the 5.1 acres of impact. These alternative paving structure materials have additional environmental benefits than just groundwater recharge, including reduced stormwater runoff and pollution. Other States have used such materials for roadways with substantial success. NCDOT should investigate alternative pervious materials prior to the issuance of the ROD.

#### Mobile Source Air Toxics (MSATs)

EPA notes in the FEIS that there are no identified near-roadway sensitive receptors, such as day care facilities, schools and hospitals.